



# COOLIDGE WALL

*A Legal Professional Association*

US EPA RECORDS CENTER REGION 5



489385

Suite 200  
33 West First Street  
Dayton, Ohio 45402-1289  
937-223-8177  
Fax: 937-223-6705  
www.coollaw.com

Direct Dial Number  
937-449-5543

E-mail Address:  
pierce@coollaw.com

Jonas J. Gruenberg  
Merle F. Wilberding  
J. Stephen Herbert  
R. Scott Blackburn  
Richard A. Schwartz  
Sam Warwar  
Terence L. Fague  
Richard A. Talda  
R. Brent Gambill  
C. Mark Kingseed  
David C. Korte  
Kristin A. Finch  
David P. Pierce  
Shannon L. Costello  
Christopher R. Conard  
Marc L. Fleischauer  
Michelle D. Bach  
Gregory M. Ewers  
Daniel J. Gentry  
Patricia J. Friesinger  
Joshua R. Lounsbury  
Michael G. Leesman  
Stephen M. McHugh  
Lu Ann Stanley  
Edie E. Crump  
Allison D. Michael  
Nicholas A. Heppner  
W. Chip Herin III  
Amy N. Blankenship

Glenn L. Bower  
John C. Chambers  
William H. Seall  
*Of Counsel*

J. Bradford Coolidge  
1886-1965

Hugh E. Wall, Jr.  
1912-2001

Ronald S. Pretekin  
1942-2011

March 23, 2015

U.S. Environmental Protection Agency  
Leslie Patterson, Remedial Project Manager  
77 West Jackson Blvd. (SR-6J)  
Chicago, IL 60604-3590

Re: Response to Special Notice Letter for the South Dayton Dump

Dear Ms. Patterson:

On behalf of our client, Fickert Devco, Inc. ("Devco"), I am responding to the above-referenced special notice letter<sup>1</sup>. Devco is not currently a contractor in the remodeling and restoration business. Moreover, the allegations against Devco appear related to an argument of successor liability pertaining to an entity known as A.E. Fickert. The current owners of Devco did not own the business at the time of the alleged disposal of materials at the South Dayton Dump (the "Site") and have no records in their possession prior to 2007.

In fact, as far as we can tell, the only allegation made against A.E. Fickert itself comes from the testimony of Edward Grillot. That testimony is that A.E. Fickert took, at most, one or two pickup loads of general construction debris to the South Dayton Dump for less than a one year period between 1967 and 1968. (Grillot Vol. II at p. 687). We have no information in our possession to substantiate this allegation. Moreover, as I am sure you are aware, there are numerous credibility problems with Mr. Grillot's testimony. If USEPA has any further information in its possession pertaining to Devco's role at the Site, please let us know at your earliest convenience.

Absent any further evidence, we respectfully decline to negotiate a consent order to perform a remedial investigation and feasibility study for the site or to reimburse USEPA for its past costs related to the site. As Devco has no insurance and very limited financial resources, it would potentially be interested in a *de minimis/de micromis* resolution at the appropriate time if one could be achieved that resolves all issues related to the Site.

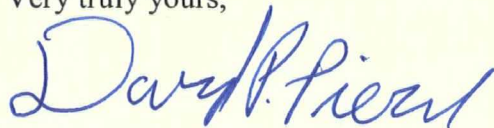
<sup>1</sup> By e-mail dated March 12, 2015, Thomas Nash, Esq. of USEPA confirmed that Devco could have until March 23, 2015 to respond to this Notice as well as USEPA's CERCLA 104(e) request for information.

# COOLIDGE WALL

*A Legal Professional Association*

Leslie Patterson  
March 23, 2015  
Page 2

Very truly yours,



David P. Pierce

DPP/map

cc: Thomas Nash, Esq. (via email)

w:\wdox\client\012203\00376\00743714.docx